IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10361 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT GAS CO. LTD.

Versus

K K BABU

Appearance:

1. Special Civil Application No. 10361 of 2001

MR K THAKER for M/S TRIVEDI & GUPTA for Petitioner

MR MUKUL SINHA for Respondent

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 10/05/2002

ORAL JUDGEMENT

1. RULE. The learned counsel for the respondent waives service of Rule.

2. The parties have, after deliberations and negotiations, arrived at an amicable settlement, the terms of which are placed on record with the signature of the parties as well as their learned counsel. It was requested that order may be made incorporating the terms of settlement and the petition may be disposed as agreed in condition No.7 of the full and final settlement.

3. Accordingly, the petition is disposed in terms reproduced below and Rule is made absolute accordingly with no order as to costs.

(A) Whereas the respondent herein was employed as a casual workman (driver) for two short durations, firstly from 29.10.1996 to 30.6.1997, and then from 1.8.1997 to 31.3.1998 on lump sum salary, for a specified and contracted period and the first spell of contract had come to an end on 1.9.1997 whereas the second period of contract had expired on 31.3.1998 and then at his request for a certificate regarding work experience, the same was given to him on or around 2.5.1998.

(B) AND WHEREAS in June 1998, the abovenamed respondent raised an industrial dispute which came to be referred for adjudication to the Labour Court, Surat by an order of Reference dated 15.9.1998 and culminated into Reference (RCS) No.271 of 1998.

(C) AND WHEREAS due to absence on part of the petitioners during the proceedings relating to the said reference, an ex parte award dated 1.8.2000 came to be passed by the Labour Court in respect of which, after having come to know about the ex parte award, the present petitioner No.1 company, on 16.12.2000, preferred a miscellaneous application in the said reference proceedings being Miscellaneous Application No.100 of 2000 in Reference (LCS) No.271 of 1998 praying for restoration of the reference proceedings and permitting the petitioners to defend the matter on merits.

(D) AND WHEREAS the Labour Court rejected the said Miscellaneous Application No.100 of 2000 in Reference (LCS) No.271 of 1998, by an order dated 10.5.2001, pursuant to which the present respondent filed, on or around 20.8.2001, Recovery Application No.587 of 2001 in the Labour Court at Surat, demanding in all an amount of Rs.71,737.76.

(E) AND WHEREAS upon being aggrieved by the said ex parte award dated 1.8.2000 passed by the Labour Court in

Reference (LCS) No.271 of 1998 as well as by the order dated 10.5.2001 passed by the Labour Court in the aforesaid Miscellaneous Application No.100 of 2000 in Reference (LCS) No.271 of 1998 as well as by the proceedings relating to the said Recovery Application No.587 of 2001, the petitioners have preferred the above captioned petition wherein, now, present full and final settlement has been arrived at and it is agreed by and between the petitioners and the abovenamed respondent that:-

(1) The present settlement is a full and final settlement of all the claims and/or disputes and/or differences and/or demands etc. as well as all the rights and/or benefits of any nature whatsoever etc. of the abovenamed respondent Mr.K.K.Babu against the abovenamed petitioner No.1 company including those made out in and/or flowing from the Reference (LCS) No.271 of 1998 and/or from the ex parte award dated 1.8.2000 passed by the Labour Court, Surat in said Reference (LCS) No.271 of 1998 and/or from the order dated 10.5.2001 in Miscellaneous application No.100 of 2000 in Reference (LCS) No.271 of 1998 and/or the Recovery Application No.587 of 2001 presently pending in the Labour Court at Surat or even otherwise, and the respondent agrees, admits and declares that pursuant to the present settlement and upon payment of the amount mentioned in the present settlement, he does not have any claim and/or dispute and/or demand and/or difference of any nature whatsoever and that he shall not claim and/or demand and/or raise any right and/or benefit of any nature whatsoever against the petitioner No.1 company including any right/benefit towards and/or/in the nature of reinstatement, money, backwages, gratuity, bonus, provident fund, leave salary, etc. and the respondent further agrees, admits and declares that if there is and/or he has any right and/or any benefit and/or claim and/or demand and/or dispute of any nature with or against the petitioner No.1 company, then the same shall be, hereafter, deemed to have been settled and waived and withdrawn and that after the present settlement no claim and/or right and/or dispute of any nature whatsoever shall survive.

(2) The respondent herein also agrees, admits and declares and assures that he shall forthwith

withdraw the proceedings relating to the Recovery Application No.587 of 2001 filed by him and presently pending before the Labour Court and that if the respondent fails to do so, or for any reason is unable to do so, then the petitioner company shall be at liberty to get it done and the said recovery application shall be, pursuant to this full and final settlement, deemed to have been settled and withdrawn and that the Labour Court would, in terms of and in view of the present settlement, pass necessary orders treating the said recovery application as withdrawn and settled.

(3) The petitioner No.1 company, for the purpose of the present full and final settlement and in consideration of the respondent giving up all his rights, claims, disputes, benefits, demands, etc. of all nature and in consideration of the respondent admitting, agreeing and declaring that none of his claims, demands, rights, benefits, disputes of any nature whatsoever survive against the petitioner company, henceforth, agrees to pay in all and as a lump sum an amount of Rs.1,75,000/- only (Rupees one lakh and seventy five thousand only) which includes amount towards back wages (for the period from the alleged date of his termination in 1998 till 9.5.2002) and also towards PF, gratuity, bonus etc. and also includes an ex gratia payment/retrenchment compensation as a full and final settlement of all his claims, rights, benefits, disputes and demands against the company and on payment of the said amount the respondent shall be deemed to have left the employment and none of his claims and/or rights including for employment would survive and if there are any the same shall be deemed to have been settled and waived.

(4) The respondent also agrees, admits and declares that if any amount is required to be deducted from the aforesaid lump sum amount/ payment of Rs.1,75,000/- only (Rupees one lakh and seventy five thousand only) towards income tax and/or any other such statutory requirements, then the company shall be at liberty to do so in accordance with the provisions of the relevant law. At the time of issuance of notice by the Court in the present petition, the petitioner company was directed to deposit in the Court an amount of Rs.5,000/- only (rupees five thousand

only), which the petitioner company has done and in this regard the respondent Mr.Babu agrees, admits, and declares that the petitioner company shall be at liberty to adjust and deduct the said Rs.5,000/- (Rupees five thousand only) against/from the amount required to be paid to him by the company by virtue of the present settlement and accordingly only the balance amount will be paid by the petitioner company, i.e. after deducting the said amount of Rs.5,000/- only (rupees five thousand only) (deposited by the company in the Court) and also after deducting the amount, if required to be deducted, towards income tax or any other statutory dues/requirements.

(5) The petitioner company also agrees and undertakes that the amount which it has agreed to pay to the respondent and which is to be paid to the respondent in accordance with the terms and conditions of the present settlement, particularly the terms and conditions agreed and mentioned in paras (3) and (4), will be paid to the respondent in accordance with the provisions of this settlement, particularly the provisions in paras (3) and (4) herein, within a period of one month from the date on which the Hon'ble High Court passes an order on the present settlement.

(6) The respondent agrees, admits and declares that he is ready and willing to accept the payment in accordance with the provisions of the present settlement, particularly in paras (3),(4) & (5) herein, of the aforesaid amount, i.e. amount payable to him as per the terms mentioned in paras (3), (4) and (5) above, as a full and final settlement in the manner and for the purpose stated in the present settlement.

(7) The parties to the settlement jointly urge and pray to the Hon'ble Court that in view of the present settlement, the ex parte award dated 1.8.2000 passed by the Labour Court, Surat in Reference (LCS) No.271 of 1998 and the order dated 10.5.2001 passed by the Labour Court, Surat in Miscellaneous Application No.100 of 2000 in Reference (LCS) No.271 of 1998 may be set aside and/or may be modified in terms of the present settlement and the above captioned petition may be allowed and/or disposed of accordingly in terms of the present settlement.

4. It is clarified and directed, by consent, that the respondent shall be paid through his advocate by a crossed-cheque in his name the sum of Rs.5,000/- lying deposited in this Court upon proper application being made.

Sd/-

(D.H.Waghela, J.)

10.5.2002

(KMG Thilake)